



BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }  
HEMET PACKING COMPANY }

Appearances:

For Appellant: Henry Walkerbarth, Attorney

For Respondent: Chas. J. McColgan, Franchise Tax Commissione

O P I N I O N

This is an appeal pursuant to Section 25 of the Bank and Corporation Franchise Tax Act (Chap. 13, Stats. 1929, as amended; from the action of the Franchise Tax Commissioner, in overruling the protest of Hemet Packing Company, a corporation, to a proposed assessment of an additional tax in the amount of \$117.26 for the year 1932, based upon its return for the year ended December 31, 1931.

In its return for the year ended December 31, 1931, Appellant computed a deduction for depreciation of its buildings, machinery and equipment, located in Riverside County and which were acquired prior to January 1, 1928, upon the basis of what it considered was the fair market value thereof as of said date. As so computed, the deduction for depreciation amounted to a sum considerably larger than if computed upon the basis of cost, the basis employed for Federal income tax purposes. The Commissioner allowed a deduction computed upon the basis employed for Federal income tax purposes, but disallowed the additional amount and accordingly proposed the additional assessment in question.

Section 8(f) of the Act, as it read during the year for which the additional assessment in question was proposed, provided that depreciation may be computed either upon the basis employed for Federal income tax purposes or upon the basis provided in Section 19 of the Act. Section 19 provided, in the case of property acquired prior to January 1, 1928, that the basis should be the fair market value of the property as of said date.

In view of these provisions, it would seem that Appellant was entitled to compute depreciation upon the basis of the fair market value of its property as of January 1, 1928, provided that value can be established,

Appellant claims that the buildings in question had a fair market value of \$33,557.48 as of January 1, 1928 and that the machinery and equipment had a value as of said date of \$82,712.73. Although the representatives of Appellant stated at the oral

Appeal of Hemet Packing Company

hearing held before the Board in this matter that these values were based on an appraisal made of the properties during 1927, the method of arriving at the appraised values has not been indicated, nor has any other evidence been introduced in support of the values claimed.

Furthermore, it appears that the buildings were assessed at but 98,050 and that the machinery and equipment were assessed at but \$17,030 for the purpose of taxation by the County of Riverside during the year 1928. Assuming that the properties were assessed at 33.53% of their actual fair market value, the average amount at which property located in Riverside County was assessed during 1928 (See p. 28 of the Board's report for 1927-28), it would appear that the fair market value of the buildings, as of the first Monday in March 1928 did not exceed \$24,000 and the fair market value of the machinery and equipment did not exceed \$51,000. In this connection, it is to be observed that although the amount for which property is assessed for local taxation may not be technical evidence of the fair market value of the property. We have held in prior appeals that it is a factor which may be considered by us in determining the fair market value (See appeal of The Richard Corporation, decided by us on April 14, 1934, and appeal of American Dredging Company, decided by us on April 23, 1934.)

In view of these conflicting values and in view of the lack of evidence submitted by Appellant in support of the values claimed by it, we must conclude that Appellant has not satisfactorily established that it was entitled to the additional depreciation claimed by it. Accordingly, we must hold that the Commissioner acted properly in proposing the additional assessment in question.

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the action of Charles J. McColgan, Franchise Tax Commissioner, in overruling the protest of Hemet Packing Company, a corporation, against a proposed assessment of an additional tax in the amount of \$117.26 for the year 1932, based upon the return of said corporation for the year ended December 31, 1931, pursuant to Chapter 13, Statutes of 1929, as amended, be and the same is hereby sustained,

Done at Sacramento, California, this 21st day of May, 1934,  
by the State Board of Equalization.

R. E. Collins, Chairman  
Fred E. Stewart, Member  
Jno. C. Corbett, Member  
H. G. Cattell, Member

ATTEST: Dixwell L. Pierce, Secretary